

STATE PUBLIC DEFENDER[493]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender amends Chapter 7, "Definitions," Chapter 12, "Claims for Indigent Defense Services," and Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code.

These amendments implement 2007 Iowa Acts, Senate File 575, which revises the hourly rate paid for indigent defense cases.

Pursuant to Iowa Code section 17A.4(2), the State Public Defender finds that notice and public participation are impractical. These amendments are required because of the statutory changes noted above.

The State Public Defender also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these amendments should be made effective July 1, 2007, because the amendments confer a benefit on the public by increasing payments to court-appointed attorneys handling indigent defense cases.

These amendments are also published herein under Notice of Intended Action as **ARC** _____ to allow for public comment.

These amendments are intended to implement Iowa Code chapters 13B and 815 as amended by 2007 Iowa Acts, Senate File 575, and chapter 600A.

These amendments will become effective July 1, 2007.

The following amendments are adopted.

ITEM 1 Amend rule 493—12.4(13B,815) as follows:

493—12.4(13B,815) Rate of compensation. Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 1999, and before July 1, 2006:

Attorney time:	Class A felonies	\$60/hour
	Class B felonies	\$55/hour
	All other criminal cases	\$50/hour
	All other cases	\$50/hour
Paralegal time:		\$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2006, and before July 1, 2007:

Attorney time:	Class A felonies	\$65/hour
	All other criminal cases	\$60/hour
	All other cases	\$55/hour
Paralegal time:		\$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2007:

Attorney time:	Class A felonies	\$70/hour
	Class B felonies	\$65/hour
	All other criminal cases	\$60/hour
	All other cases	\$60/hour
Paralegal time:		\$25/hour

12.4(1) Applicability to juvenile cases. In a juvenile case to which the attorney was appointed before July 1, 1999, the state public defender will pay the attorney \$50 per hour for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 1999. In a juvenile case to which the attorney was appointed after June 30, 1999, but before July 1, 2006, the state public defender will pay the attorney \$55 per hour for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 2006. In a juvenile case to which the attorney was appointed after June 30, 2006, but before July 1, 2007, the state public defender will pay the attorney \$60 per hour for all services performed following the dispositional hearing or the first

regularly scheduled review hearing occurring after June 30, 2007. However, the attorney must file separate claims for services before and after said hearing. If a claim is submitted with two hourly rates on it, the claim will be paid at the lower applicable rate.

12.4(2) Appointments before July 1, 1999. In a case to which the attorney was appointed before July 1, 1999, attorney time shall be paid at a rate that is \$5 per hour less than the rates established pursuant to 2000 Iowa Acts, chapter 1115, section 10. Claims for compensation in excess of these rates are not payable under the attorney's appointment and will be reduced.

12.4(3) Applicability to appellate contracts. This rule shall not apply to claims from attorneys with appellate contracts with the state public defender.

12.4(4) All other cases. As used in this rule, the term "all other cases" includes appeals, juvenile cases, contempt actions, representation of material witnesses, and probation/parole violation cases, post conviction relief cases, restitution, extradition, and sentence reconsideration proceedings without regard to the level of the underlying charge.

ITEM 2. Amend subrule 12.5(1) as follows:

12.5(1) Frivolous appeals. In an appeal to which the attorney was appointed after June 30, 1999, and before July 1, 2006, in which the attorney withdraws, based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$50 per hour, with a maximum fee of \$1,000 in each case. In an appeal to which the attorney was appointed after June 30, 2006, and before July 1, 2007, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$55 per hour, with a maximum fee of \$1,100 in each case. In an appeal to which the attorney was appointed after June 30, 2007, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to

the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$60 per hour, with a maximum fee of \$1,200 in each case.

ITEM 3. Amend subrule 12.5(2) as follows:

12.5(2) Juvenile cases/joinder. In a juvenile appellate case to which the attorney was appointed after June 30, 1999, and before July 1, 2006, involving more than one appellant or appellee, where an attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$50 per hour, with a maximum fee of \$500 in the case. In a juvenile appellate case to which the attorney was appointed after June 30, 2006, and before July 1, 2007, involving more than one appellant or appellee, where an attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$55 per hour, with a maximum fee of \$550 in the case. In a juvenile appellate case to which the attorney was appointed after June 30, 2007, involving more than one appellant or appellee, where an attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$60 per hour, with a maximum fee of \$600 in the case.

ITEM 4. Amend subrule 12.6(3), paragraph "a," as follows:

a. In an appeal to which the attorney was appointed after June 30, 1999, and before July 1, 2006, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$50 per hour, with a fee limitation of \$1,000. In an appeal to which the attorney was appointed after June 30, 2006, and before July 1, 2007, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$55 per hour, with a fee limitation of \$1,100. In an appeal to which the attorney was appointed after June 30, 2007, in which the attorney withdraws based on a determination that the appeal is frivolous or

in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$60 per hour, with a fee limitation of \$1,200.

ITEM 5. Amend subrule 12.6(3), paragraph "b," as follows:

b. In an appellate case to which the attorney was appointed after June 30, 1999, and before July 1, 2006, in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$50 per hour, with a fee limitation of \$500. In an appellate case to which the attorney was appointed after June 30, 2006, and before July 1, 2007, in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$55 per hour, with a fee limitation of \$550. In an appellate case to which the attorney was appointed after June 30, 2007, in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$60 per hour, with a fee limitation of \$600.

ITEM 6. Amend rule 493—14.3(13B,600A,815) as follows:

493—14.3(13B,600A,815) Hourly rate and fee limitations. Unless the attorney has a contract with the state public defender that provides for a different rate or manner of payment, claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after March 11, 2004, and before July 1, 2006, shall be paid at the rate of \$50 per hour, with a fee limitation of \$500 for the trial court proceedings and \$500 for appellate proceedings. Claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after June 30, 2006, and before July 1, 2007, shall be paid at the rate of \$55 per hour, with a fee limitation of \$550 for the trial court proceedings and \$550 for appellate proceedings. Claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A to which the attorney was appointed after June 30, 2007, shall be paid at the rate of \$60 per hour, with a fee limitation of \$600 for the trial court

proceedings and \$600 for appellate proceedings. Claims shall not be approved for an amount in excess of this fee limitation.

June _____, 2007

Thomas G. Becker
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